

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BLACKWATER SECURITY CONSULTING,
LLC, a Delaware Limited Liability Company; and
BLACKWATER LODGE AND TRAINING
CENTER, INC., a Delaware Corporation,

Plaintiffs,

v.

WESTCHESTER SURPLUS LINES INSURANCE
COMPANY, a Georgia Corporation; EVANSTON
INSURANCE COMPANY, an Illinois Corporation;
FIDELITY AND CASUALTY COMPANY OF
NEW YORK, a South Carolina Corporation; and
LIBERTY INSURANCE UNDERWRITERS, a
Massachusetts Corporation,

Defendants.

CIVIL ACTION

NO. 05-CV-06020 (PBT)

**LIBERTY INTERNATIONAL UNDERWRITERS'
MOTION TO FILE A SUPPLEMENTAL BRIEF
IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT**

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*Attorneys for Defendant, Liberty International
Underwriters improperly named as Liberty
Insurance Underwriters*

Defendant, Liberty International Underwriters (“Liberty”) improperly named as Liberty Insurance Underwriters, by and through its attorneys, Post & Schell, P.C., respectfully moves this Court to allow Defendant Liberty International Underwriters to file the attached Supplemental Brief in support of its Motion for Summary Judgment (Dkt. No. 55) based on new admissions of war by Plaintiffs, Blackwater Security Consulting, LLC and Blackwater Lodge and Training Center, Inc. (“Blackwater”) and in support thereof avers the following:

1. Liberty filed a Motion for Summary Judgment against Blackwater and a supporting Memorandum of Law on or about July 27, 2007. (Dkt. No. 55.)

2. Liberty’s Motion for Summary Judgment is based on Liberty’s claim that the War/Terrorism exclusion in the Liberty policy excludes coverage for the claims asserted by the plaintiffs in the *Nordan* action (“Decedents”) because the Decedents’ deaths were “caused by, arising from or related in any way, directly or indirectly, to . . . ‘War and Military Action’ which includes without limitation . . . War, including undeclared or civil war, . . . Insurrection, rebellion, [or] revolution . . .” See Tellner Decl., Ex. 18, LIU-BSC-000028 (Dkt. No. 55).

3. Blackwater filed a Response to Liberty’s summary judgment motion on August 13, 2007. (Dkt. No. 61.)

4. Liberty filed a Reply on August 20, 2007. (Dkt. No. 62.)

5. Blackwater filed a Sur Reply Brief on September 12, 2007. (Dkt. No. 70.)

6. Blackwater contends that the Decedents’ did not die during war. (Dkt. No. 61, 70.)

7. After Blackwater filed its Sur Reply Brief, Blackwater made admissions that the armed conflict in Iraq is a war, which admissions support Liberty’s Motion for Summary Judgment and directly contradict Blackwater’s opposition.

8. Accordingly, it is appropriate for the Court to be aware of these recent admissions of war and to accept the attached supplemental brief in support of Liberty's summary judgment motion.

WHEREFORE, Defendant Liberty International Underwriters respectfully moves this Honorable Court to accept its Supplemental Brief in support of its Motion for Summary Judgment against Plaintiffs, Blackwater Security Consulting, LLC and Blackwater Lodge and Training Center, Inc. A proposed form of Order is attached.

Dated: October 11, 2007

POST & SCHELL, P.C.

By: /s/ John C. Sullivan
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